

Attorneys at Risk

Professional Perils of Mental Impairment, Substance Use & Suicide

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Charleston, South Carolina
Public Defender Association – Annual Conference
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1

Attorneys at Risk

Lawyers Grapple with Substance Abuse More than Other Professionals
(Bloomberg BNA)

The Legal Profession's Drinking Problem (CNN)

Mental health crises plague attorneys along with alcohol abuse, study says
(California Bar Journal)

High Rate of Problem Drinking Reported Among Lawyers
(The New York Times)

Study Indicates Lawyers Struggling with Substance Use and Other Mental Health Issues (Forbes)

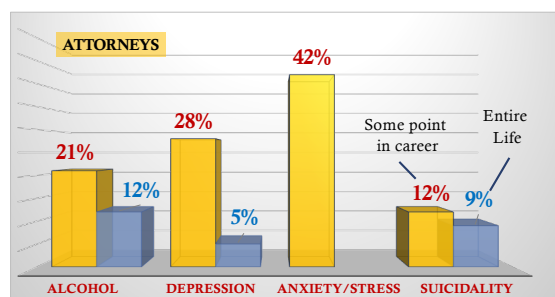
High rates of alcohol abuse, depression among U.S. attorneys, study says
(Chicago Tribune)

Young attorneys, law students prone to mental health issues
(The Indiana Lawyer)

2

Attorney Substance/MH Study

Krill, Johnson & Albert (2016)



3

Attorney Substance/MH Study

Krill, Johnson & Albert (2016)

- “It’s left to speculation what motivated 75% of attorneys to skip over the section on drug use as if it wasn’t there.”

• Patrick Krill

4

Public Defenders

[Levin et. al, 2011]

Self-Report Clinical Measure	General Pop.	Support Staff (Paralegals)	Public Defenders
Depression Scale	10%	19.3%	39.5%
Functional Impairment	---	27.5%	74.8%

5

Starts in Law School...

[Benjamin, 2008, Sheldon & Krieger, 2007]

- 1st Year Incoming Law Students
 - Rates of Depression = Population
- 3rd Year (Spring)
 - 40% Rate of Depression
- Factors
 - Excessive Workload, Competition
 - Status-Seeking, Hierarchical Markers of Worth
 - Focus on External Motivators
 - Analytical thought, removal of emotions, loss of connection to feelings, morals/values, sense of self

6

Attorney Risk Factors

- “Lawyers...are taught not to show weakness; to deny, defend, and deflect vulnerability; while staying emotionally detached at all times.”

• L. Albert, LWSC, WisLAP
(Lawyers Assistance Program)

7

Attorney Risk Factors



8

Attorney Risk Factors

- “There are a lot of high stress professions...being a physician has stress. However, when the surgeon goes into the surgical suite to perform his surgery, they don’t send another physician in to try to kill the patient. You know, they’re all on the same team... In the legal profession, adversity is the nature of our game.”

Yvette Hourigan
Kentucky Lawyer Assistance Program.

9

Attorney Risk Factors

“Absolutely everything that public defenders do is about challenging the status quo – pretrial motions, cross-examination, filing appeals.

In fact, their mere existence poses such a challenge.”

Former Executive Director
District of Columbia Public Defender Service
Cynthia Jones

10

Public Defender Risk Factors

- Heavy Caseloads
- Lifestyle Issues
- Limited Resources
- Advocacy ‘Burden’
 - You *are* the Defender
- ‘Not a paid/real lawyer’
 - Client Distrust



11

‘Stress of Injustice’

[Bacak, Lageson & Powell, 2020]



12

Public Defender Risk Factors

[Bacak, Lageson & Powell, 2020]

'Stress of Injustice'

- 1) Excessively Punitive System
 - "Intense responsibility..."
- 2) Divestment in Indigent Defense
 - "Chronic sense of personalized failure"
- 3) Criminalization of Mental Illness
 - Lack of training, mentally ill treated as criminals



13

At Risk Conditions...

- CHRONIC STRESS
- VICARIOUS TRAUMA
- DEPRESSION
- SUBSTANCE USE
- SUICIDE

14

'Chronic Stress'

Impatient, Irritable, Fatigue
Changes in Sleep/Appetite/Grooming
Apathy, Defensiveness, Changes in Routine
*Increased Negative Coping

EMOTIONAL
Anxiety, Anger
Hypersensitivity, Overwhelmed

COGNITIVE
Decreased Concentration,
Problem-Solving Pw
Forgetfulness, Distractibility

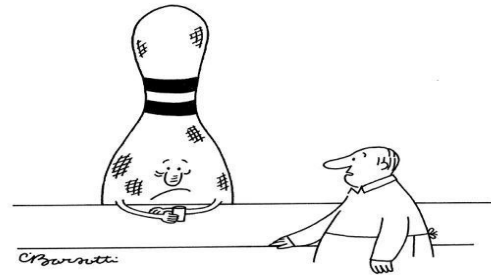
SOCIAL
Withdrawal, Isolation
Loneliness, Interpersonal Conflicts

WORK
Low Morale, Avoiding Tasks
Increased Skepticism
Poor Performance/Productivity
Mistakes, Missing Deadlines,
Continuances

HEALTH
Frequent Headaches/Illness,
Changes in Weight, etc.
Problems with Immune Response

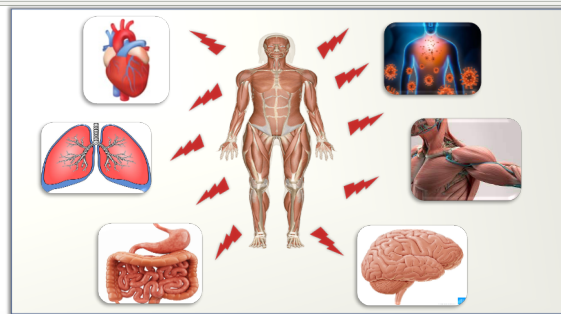


15



16

Chronic Stress – Physiological



17

Vicarious 'Secondary' Trauma

(Brobst, 2014)

- **What?** "Transformation in the self...that results from empathic engagement with traumatized clients and their reports of traumatic experiences."
- **How?** Indirect, repeated exposure to trauma through a firsthand account or narrative of a traumatic event
- **Who?** Helping Professions – Legal, Medical, etc.

18

VT: Public Defenders

[D. Molvig, 2011]

- “Our clients have a lot of trauma in their lives: poverty, lack of education, homelessness, joblessness, mental health issues, substance abuse issues, their issues become ours.

You absorb that on a day-to day basis, and you take it home with you. It can make you irritable and short-fused with your family.”

- *Public Defender of 22 years*

19

A Public Defender's Perspective...

- “Yes, let's do this, let's fight the man all the time...then I burned out really hard. I didn't have the skills to protect my emotional stability and be a functional human being outside of the office, after being exposed to trauma and horrible stories all day... you have to dig through all that.”

[Bacak, Lageson & Powell, 2020]

20

Vicarious 'Secondary' Trauma

Impact?

- “...disrupts one's central schemas, including assumptions about the world, trust, and dependency.”

- Dr. Andrew Levin

21

VT: Trust/Safety Impact

(McCann & Pearlman, 1990)

The World is ~~Mostly Good~~ [BAD]

- Loss of safety, increased personal vulnerability or of loved ones, life is fragile, helplessness, depression, despair

Life is ~~Meaningful~~ [Meaningless]

- Loss of idealism, increasing pessimism, cynicism

People are ~~Trustworthy~~ [Dangerous]

- Alienation from others, feeling 'separate,' disconnected
- Become distrustful or suspicious

22

VT: Anxiety/Hypervigilance



“I bark at everything.
Can't go wrong that way”

23

A Public Defender's Perspective...

- “As much as it's important to detach and not take the work home with you, I think there's also this fear of too much detachment... your capacity to constantly respond with sadness and shock every time someone tells you the same [traumatic] story that you've heard many times before...you can sense that you're less able to be as empathetic.”

[Bacak, Lageson & Powell, 2020]

24

VT: 'Detachment'



"Listen, pal, they're all emergencies."

25

VT: Attnys vs. MH Prof. vs. Social Wkrs

(Levin & Greisberg, 2003)

Attorneys had **significantly higher caseload** of traumatized clients over past 12 months than other two groups

Attorneys have **less or no education** on the impact of ongoing exposure to traumatic material

Attorneys had **less access to case supervision**

Attorneys experienced more sx of VT than both groups.
Intrusive recollections, avoidance of material, sleep difficulties, irritability, concentration

26

'Clinical' Depression

- For At Least Two Weeks...

- Depressed Mood (Empty, Sad, Hopeless)
- Unkempt, Disheveled
- Speak Softly or Little, Expressionless
- Fatigue, Apathy, Social Withdrawal and Isolation
- Guilt, Worthlessness, Decreased Concentration
- Weight loss/Gain, Sleep Disturbance
- Suicidality
- (With Psychotic Features)

27

Clinical Depression

"The opposite of depression is not happiness, but vitality..."

R. O'Connor, PHD

"Undoing Depression"

28

Substances



- **Use**
 - Celebrating a Trial Win
- **Abuse**
 - Continued Use = Problems Late to Work, Missing Deadlines, 'Out of Action,' Health, Risky Behaviors
- **Dependence**
 - Tolerance
 - Physiological Withdrawal
 - Cravings, Urges
 - All Consuming

29

Alcohol 'Red Flags'



- Increased Frequency
- 'Black Outs'
- Defensiveness
- Only Coping Mechanism
- Drinking Alone More
- Need Alcohol to Sleep
- Morning Drinking
- Guilt / Shame
- Hiding/Lying re: Drinking
- Using Drugs to Control Drinking

30

Alcohol In Court...

CASES

Court Suspends Attorney Arrested after Being Intoxicated at Trial

By Dan Trevas | September 19, 2019

NEWS

Judge forced to toss sex assault charges after prosecutor shows up drunk

KS Supreme Court disbars Topeka lawyer for being drunk at hearing

Judge Declares Lawyer Drunk in Court

August 9, 2006

31

Attorney Suicide

Coroner releases name, cause of death after attorney's body found in Greenville law firm

Employees find Dick James' body in Rutherford Street office

Share



January 14, 2019



Updated: 4:45 PM EST Jan 14, 2019

DEATHS, SUICIDE

Apparent Suicide In Front Of D.C. Law Office Building

By ELIE MYSTAL on November 3, 2015 at 8:46 PM

32

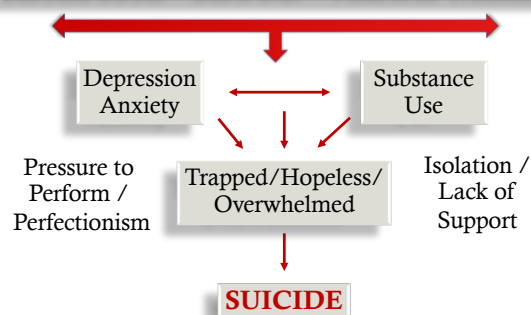
Attorney Suicide

- 3rd Leading Cause of Death for Attorneys
- 10th Leading Cause of Death for Pop.
- 54% More Likely than other Professions to Commit Suicide [1997 to 2007] - CDC
- 2008 in SC – 8 ATTORNEYS killed themselves with 18 months

[Krause & Chong, 2018]

33

Chronic Stress – Burn Out – Vicarious Trauma



34

Suicide 'Storm'

- “What people experience before attempting suicide is a combination of panic, agitation and franticness... a desire to escape from unbearable pain and feeling trapped.”

• Dr. Igor Galynker
Mount Sinai Beth Israel

35

Warning Signs of Suicide Risk



Affective/Psychological

- Alienation, Depressed
- Extreme Moodiness
- Agitation, Rage, Hostility
- Withdrawal
- Expressing Helplessness
- Feeling Defeated, Hopeless
- Feel like a Failure
- *Feeling Trapped

Events/Behaviors

- Divorce, Foreclosure, Illness
- Family/Friend Suicide
- **Increased Drinking/Substance
- **Talking about Death/Suicide
- Seeking Access to Guns, Pills
- Giving Away Possessions
- Saying Goodbyes
- Sudden Improvement, Calm

36

Barrier to Action



37

Ethics of Impairment

- “Compassionate lawyering for social justice requires care and nurture of the lawyer, as well as the client, and this self-care is our ethical duty.”

• J. K. Peters

38

Ethics of Impairment

Rule 1.1 – Competence

Client-Lawyer Relationship

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

39

Ethics of Impairment

- “Mental impairment does not lessen a lawyer’s obligation to provide clients with competent representation.”

ABA Formal Opinion 03-429

40

Ethics of Impairment

Rule 1.16 – Declining or Terminating Representation

- (a) A lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client, if...
 - (2) the lawyer’s physical or **mental condition materially impairs** the lawyer’s ability to represent the client.

41

Ethics of Impairment

Rule 8.3 – Reporting Professional Misconduct

- (a) A lawyer who knows another lawyer has committed a violation of the Rules...that raises a substantial question as to that lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

42

Ethics of Impairment

- “A lawyer may not shut his eyes to conduct reflecting generally recognized symptoms of impairment...”
- Need not act on rumors...
- Impairment in social settings not enough
- Must be “materially impairing”
- No “affirmative obligation” to address with colleague first



ABA Formal Opinion
03-431

43

How to Approach a Colleague?

- Contact LHL - anonymous consult or mental health provider
- Share concerns with close friend/mentor of the individual
- Share with supervisor if needed
- Approach gently, direct, be non-judgmental, review + qualities
- ‘I am concerned about you because’ ... ‘you haven’t been yourself’...*
- Provide specific, observed examples
- Listen - Goal is for them to talk
- *Have professional resources ready, encourage, offer hope
- Address suicide directly if needed, remove lethal means if possible

44

How to Approach a Colleague?

- DON’T....
 - Be afraid to approach – you can’t make it worse
 - Be shocked
 - Give a ‘pep talk’ or ‘bootstrap’ analogy
 - Promise secrecy
 - Impose personal beliefs
 - Appear judgmental
 - Minimize their situation
 - **Ignore suicidal references

45

Outcome?

Meagher (2005)



46

Attorney Well-Being Study

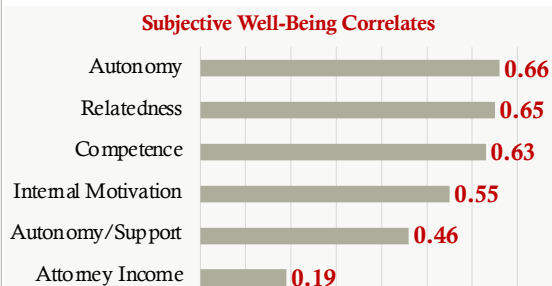
Krieger & Sheldon (2015)

- Study to determine not WHETHER lawyers are unhappy but WHICH lawyers are more or less happy and WHY...

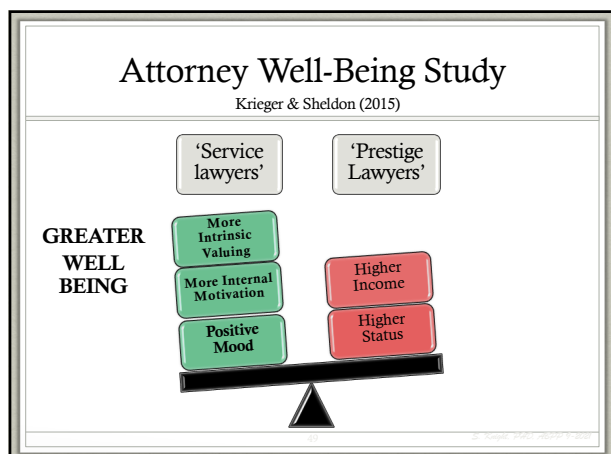
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Attorney Well-Being Study

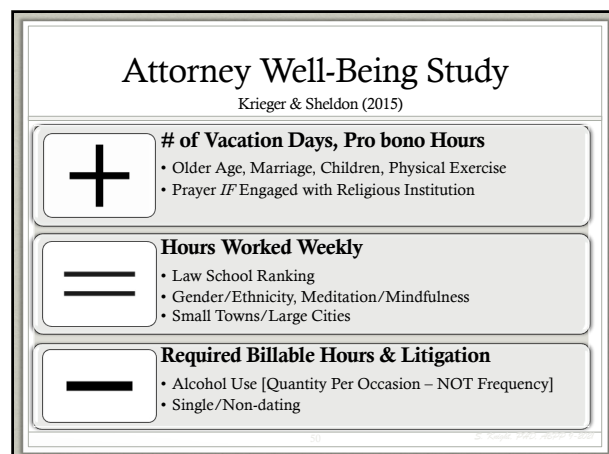
Krieger & Sheldon (2015)



48



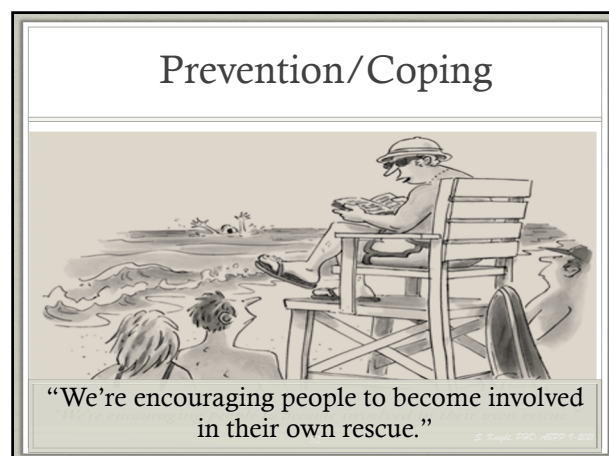
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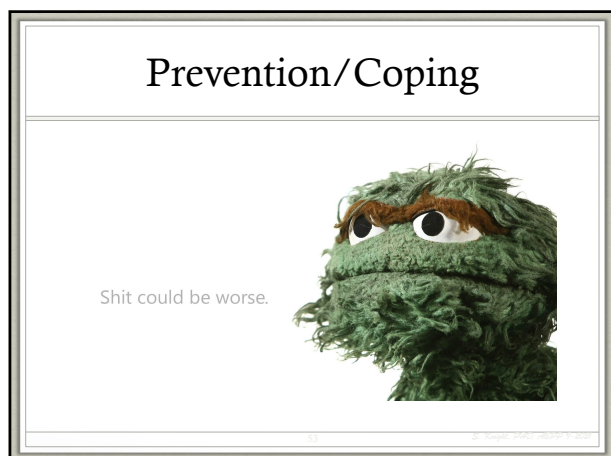
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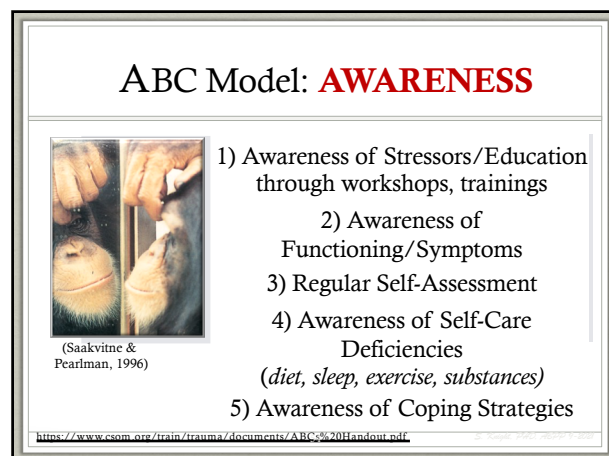
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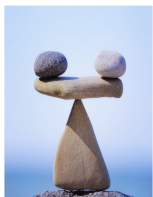


53



54

ABC Model: **BALANCE**



(D. Murray, 2008)
(Saakvitne & Pearlman, 1996)

- 1) **Manageable Caseload
- 2) Maintain Professional Boundaries
- 3) Alternative Intellectual Pursuits
- 4) Creative Activity
- 5) Involvement with Community Outside of Law
- 6) *Physicality
- 7) Spiritual Home / Spiritual Practice (Mindfulness, Meditation, Yoga, etc.)
- 8) Take your Vacations!

<https://www.csom.org/train/trauma/documents/ABC%20Handout.pdf>

55

ABC Model: **CONNECTION**



(Saakvitne & Pearlman, 1996)
(D. Murray, 2008)

- 1) Peer/Colleague Support
[Vent / Debrief / Connect]
- 2) Seek a Mentor Relationship
- 3) Connect to Lawyer Support Groups
- 4) Connect to MH Services
[MH Services / Counseling]

<https://www.csom.org/train/trauma/documents/ABC%20Handout.pdf>

56

Services/ Assistance

- SC HELP Lawyers Helping Lawyers [LHL]
- NAMI-SC – Local Chapters
- SC Psychological Association
- SC Psychiatric Association
- ABPP – Board Certification Site – Psychologists
- ABCSW - American Board of Clinical Social Workers
- NBCC - National Board for Certified Counselors
- Ask Primary Care Physician
- Ask Friend/Colleague in Treatment
- Ask MH Professional

57

- “That which is to give light must endure burning.”

Viktor Frankl

58

- Thank you!

- S. Knight, PhD, ABPP
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59